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Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic

Note verbale dated 23 May 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic, and has the honour to transmit to it the report on the action taken by Spain to implement Security Council resolution 2339 (2017) (see annex).

Please recycle

Annex to the note verbale dated 23 May 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain regarding the implementation of Security Council resolution 2339 (2017)

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 2127 (2013) and, pursuant to paragraph 36 of Security Council resolution 2339 (2017), has the honour to present the required implementation report regarding the specific action taken by Spain to implement actively the measures imposed by paragraphs 54 and 55 of Security Council resolution 2127 (2013) and paragraphs 30 and 32 of Security Council resolution 2134 (2014).

Pursuant to paragraph 36 of the resolution, referred to above, through which the Council calls upon all States, particularly those in the region, to report to the Committee on the actions they have taken to implement the measures imposed by Security Council resolutions 2127 (2013) and 2134 (2014), Spain, like the other States members of the European Union, has implemented the sanctions concerned by means of the following common measures:

(a) Decision 2013/798/CFSP of the Council of the European Union, of 23 December 2013, concerning restrictive measures against the Central African Republic, amended by Council Decision (CFSP) 2017/412 of 7 March 2017, which incorporates the changes provided for in Security Council resolution 2339 (2017);

(b) Regulation (EU) 224/2014 of the Council of the European Union, of 10 March 2014, concerning restrictive measures in view of the situation in the Central African Republic, amended by Regulation (EU) 2017/400 of 7 March 2017.

Legal framework

On 5 December 2013, the Security Council adopted resolution 2127 (2013), imposing on the Central African Republic an arms embargo, transposed by the European Union by Decision 2013/798/CFSP. The sanctions were expanded by Security Council resolution 2134 (2014) to include a freeze on funds, other financial assets and economic resources, transposed by Decision 2014/125/CFSP.

The successive changes to the sanctions regime were transposed through the appropriate legal instruments.

Action taken to implement actively the measures imposed by Security Council resolution 2339 (2017):

Action connected with the conventional arms embargo

In the case of the arms embargo, the Decision and Regulation regarding sanctions are supplemented by Spanish legislation regulating foreign trade in defence-related and dual-use materials. Spain subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority.

Through the Interministerial Board for the Regulation of External Trade in Defence and Dual-Use Materials (JIMDDU) and the State Secretariat for Trade of the Ministry of Economy, Trade and Competitiveness, the Government of Spain makes a full analysis of every export transaction, taking account of the parameters

in articles 6 and 7 of the Arms Trade Treaty, the eight criteria in Council Common Position 2008/944CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and the criteria in the Organization for Security and Cooperation in Europe Document on Small Arms and Light Weapons. During the evaluation of applications, particular attention is paid to importing countries' compliance with Common Position criterion 1 (embargoes), criterion 2 (respect for human rights), criterion 3 (internal situation), criterion 4 (regional situation) and criterion 7 (risk of diversion), with authorization of transactions being denied if the criteria are not met.

The competent authorities in Spain comply very strictly with the restrictive measures associated with the United Nations and European Union embargoes. They consequently meet regularly with companies in the industry concerned to explain to them the legislation in force and the Spanish export-control system, with particular emphasis on current embargoes. Spanish companies are consequently aware of the restrictions on exports of arms and related materiel to countries covered by embargoes, and they therefore usually do not apply for licences in connection with those countries of destination.

The applicable national legislation in this field is contained in Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials, in the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology approved through Royal Decree No. 679/2014 of 1 August 2014, and in Order ECC/1493/2016, of 19 September 2016, updating the annexes to the aforementioned Regulations. Article 8 of the Act in certain circumstances allows applications for licences to be denied and licences granted to be suspended or revoked by an order issued by the head of the State Secretariat for Trade. Licences must in any case be revoked for failure to comply with the conditions attached to them and providing grounds for their issuance, or if the applicant has omitted or falsified information.

The definition of the offences and penalties which apply in Spain to failure to implement the sanctions on the part of operators are established in Organic Act 12/1995, of 12 December 1995, on countering smuggling, amended by Organic Act 6/2011 of 30 June 2011. Exporting such goods without a licence is defined as smuggling if their value equals or exceeds €50,000, and that offence carries a prison term of one to five years and fines of up to six times the value of the exported goods.

Entry bans and travel restrictions

Regulation (EU) 224/2014 of the Council of the European Union contains the updated list of individuals subject to entry bans and travel restrictions. This, together with Council Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders, forms the basis for prohibiting entry into the territory of the European Union.

In this regard, Spanish policy on foreign nationals is governed by Organic Act 4/2000, of 11 January 2000, on the rights and freedoms of aliens in Spain and their social integration.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing. Article 42 of Act 10/2010, of 28 April 2010, on preventing money-laundering and terrorist financing, explicitly mentions the freezing of funds in accordance with international sanctions and is fully applicable to the Central African Republic.